

Monday, December 25, 2006

### **Video of justices discussing Constitutional interpretation /Justices in the public view.**

Here is a recent video of United States Supreme Court Justices Breyer and Scalia discussing Constitutional interpretation. Each Supreme Court justice sets his or her own limits on what to discuss in public, where, and for how much money (if for any money), in part taking into consideration the extent to which the justice might be seen as prejudging issues to be presented to the Supreme Court. Late Chief Justice Warren E. Burger apparently was very private, probably too inaccessible to the public, which has a need to understand the workings of this only branch of government comprised exclusively of un-elected members. Longtime Justice Scalia seems to be among one of the most publicly visible and gregarious justices outside of the august surroundings of the Supreme Court. Being in the Washington area for two decades, I have attended several Supreme Court oral arguments, and have briefly met three of the justices. I recount here the ecstasy of meeting the late Justice William Brennan when he received an NACDL award. I have met Justice Ruth Bader Ginsburg at a couple of gatherings. I recount here my 1988 meeting with Justice Antonin Scalia. In 1989, I heard now-Justice/then EEOC Chair Clarence Thomas talk at a quarterly meeting of the American Bar Association's Individual Rights and Responsibilities Section. He was introduced as a likely nominee to the District of Columbia federal Circuit Court. Late Justice Thurgood Marshall resigned two years later, and Justice Thomas replaced him on the Supreme Court after hearings more heated than Robert Bork's. Not long after Justice Thomas was confirmed to the Supreme Court by the twentieth century's narrowest vote, of 52-48, I bumped into Senator Joseph Lieberman in my neighborhood supermarket parking lot, and thanked my former senator for voting against Thomas. He passed on making any comment beyond the statement represented by his vote. One day during the heated controversy over his ultimately-failed Supreme Court nomination, I saw Robert Bork in a car passenger's seat near my law school. I was so stunned to see this man whom I so vehemently wanted off the Supreme Court that I could not think of anything more clever than to ask "How are you?" to which he answered "Fine, fine." Then again, perhaps that was in line with my later practice of t'ai chi, to know the opposition and to keep the opposition within arm's length. Jon Katz.

Posted by Jon Katz in Constitutional Law at 00:00